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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/697,860

10/30/2003

Terrence Anton

10052-001

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29391

7590

05/13/2005

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EXAMINER

GRAHAM, MARK S

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Sp

Office Action Summary	Application No.	Applicant(s)	
	10/697,860	ANTON ET AL.	
	Examiner	Art Unit	
	Mark S. Graham	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33,35-37,39-48 and 52-64 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 and 52-64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-33,35-37 and 39-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3711

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Dumas. Note Dumas' configuration as depicted in Fig. 7.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25, 26, 31, 33, 39, and 40, 42, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumas.

Concerning claims 25 and 26, Dumas does not disclose the claimed 8 rows of holes in Fig. 7. However, it would have been obvious to one of ordinary skill in the art to have added additional rows to Dumas' course if it was desired to provide more playing opportunity.

Dumas discloses the claimed device with the exception of some of the golf course details recited by the applicant in claims 31 and 33. However, the examiner takes official notice that golf courses commonly possess mounded areas; and color coded tee boxes to provide obstacles and to provide different teeing points for golfers of

Art Unit: 3711

differing ability respectively. It would have been obvious to one of ordinary skill in the art to have included such with Dumas' course as well for the same reasons.

With regard to claims 39, 42, and 43, Dumas discloses the claimed device with the exception of each hole having a plurality of tee boxes. However, the examiner takes official notice that it is commonly known in the art to provide holes with a plurality of tee boxes so that men, women, and experts may play together. It would have been obvious to one of ordinary skill in the art to have done the same on Dumas' course.

Regarding claim 40, the examiner takes official notice that golf courses are commonly provided with extra space and swimming pools in country club settings to provide various activities. It would have been obvious to one of ordinary skill in the art to have provided Dumas' course in the same manner for the same reason.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dumas in view of Aberg.

Concerning claim 41, Dumas does not place limits on the size of his golf course. In response to applicant's request for the examiner to provide evidence of the official notice taken in the previous action the Aberg reference has been cited to show an example of the well known concept of a shrunken course. As asserted by the examiner in the previous action it would have been obvious to one of ordinary skill in the art to have Dumas' course in such a fashion if limited space was a consideration.

Claims 28 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumas in view of Shaw et al. (Shaw). Dumas discloses the claimed device with the exception of the irrigation layout. However, as disclosed by Shaw such are known

Art Unit: 3711

in the art and it would have been obvious to have provided one on Dumas' course as well for its inherent purpose. Regarding the parallel pipes of claim 44, Shaw teaches that the sprinkler heads are located along the length of the fairway. In so locating sprinkler heads on Dumas' layout parallel pipes would inherently have been run.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dumas in view of Taniguchi et al. (Taniguchi). Dumas discloses the claimed device with the exception of the lighting layout. However, as disclosed by Taniguchi such are known in the art and it would have been obvious to have provided one on Dumas' course as well for its inherent purpose. Taniguchi teaches placing the lights along one side of the hole. This is a standardized arrangement.

Claims 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumas in view of Shaw and Taniguchi. Dumas discloses the claimed device with the exception of the irrigation and lighting layout. However, as disclosed by Shaw and Taniguchi respectively, such are known in the art and it would have been obvious to have provided them on Dumas' course as well for their inherent purposes. Absent a showing of unexpected results the exact area of the putting greens would obviously have been up to the ordinarily skilled artisan depending on the design of green desired on the golf course. The exact placement of the tee boxes likewise would have been up to the ordinarily skilled artisan depending on the exact length desired on each of Dumas' substantially identical parallel and perpendicular holes.

Claims 35-37 and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumas in view of Armstrong, III et al. (Armstrong). Dumas discloses

Art Unit: 3711

the claimed device with the exception of the target. However, it is known in the golf art to use such targets for golf games as disclosed by Armstrong. It would have been obvious to one of ordinary skill in the art to have used such on Dumas' course as well to play a game such as that disclosed by Armstrong.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 44 above, and further in view of Taniguchi. Claim 45 is obviated for the reasons set forth in the claim 44 rejection with the exception of the lighting layout. However, as disclosed by Taniguchi such are known in the art and it would have been obvious to have provided one on Dumas' course as well for its inherent purpose.

In response to applicant's arguments regarding Dumas, Dumas discloses the claimed parallel and axial holes having the same fairway length in a grid setup as claimed. Note again Fig. 7. Identical common features such as greens, tees, and fairways are present on each hole. The fact that diagonal holes are also disclosed is irrelevant to this fact. Further, how the course is played is not at issue.

Regarding the rejections based in part on Armstrong and applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the knowledge generally available to one of ordinary skill in the

Art Unit: 3711

art would make obvious to the ordinarily skilled artisan a golf hole using a target such as Armstrongs if it was desired to play a game such as disclosed by Armstrong.

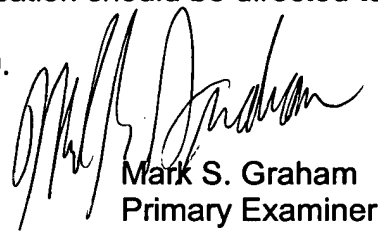
Applicant's arguments with respect to the claims rejected based on Trasko have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG
5/11/05



Mark S. Graham
Primary Examiner
Art Unit 3711